



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Stephen E. Moorman et al.

Application No.: 09/781,986

Confirmation No.: 9562

Filed: February 14, 2001

Art Unit: 3727

For: COLLAPSIBLE CONTAINER WITH HINGED  
WALLS HAVING LATCHING AND  
ALIGNMENT SYSTEMS  
Systems

Examiner: S. J. Castellano

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**DECLARATION UNDER RULE C.F.R. 1.132**

I, Claude Lessard, a citizen of Canada, hereby declare as follows:

1. I am a co-inventor of the subject matter described and claimed in U.S. Patent Application Serial No. 09/781,986, filed on February 14, 2001 and otherwise identified above.

2. This declaration is being submitted to address certain incorrect conclusions reached by the Examiner as to the teachings and disclosure of the principal reference cited the Examiner (Foy et al., U.S. Patent No. 4,917,255, ("Foy")), as well as to correctly describe the operations and limitations of the wall alignment system for the collapsible container as included in the claims of the present invention.

3. I have been involved in designing collapsible containers for nine years. Before discussing the reference, it is first necessary to understand the operations and limitations of a collapsible container as described in the present invention and as is known to those skilled in the art.

4. There are shown in Figures 1, 3-6 and 10 (see Appendix A) a structure for a collapsible container 10 having sidewalls 34, 36 and end walls 44, 46, each respectively pivotally affixed to a base 14. This allows for the walls to move from a down position to an upright position resulting in the collapsible feature of the container.

5. The end walls and sidewalls are maintained in an upright position by use of a latching system 200 for releasably latching adjacent side and end walls together when the side and end walls are in the upright positions. The latching system 200 includes latching member 210. Latching member 210 includes a camming surface so that a force is applied against the latching member as the adjacent wall to the wall containing this latching member 210 is moved upward and becomes latched.

6. In general, latching members, other than the inventive one disclosed, taught and claimed in the present invention, are known in the art. A force is applied by one wall as it cams along the latching member, deflecting the latching member and often the wall with it. In other words, as latching occurs, the wall containing the latching member is deflected away from the wall being placed in the upright position.

7. This results in the problem that the locking structure 64 which secures the sidewalls to the end walls do not properly mate, particularly at the upper regions of the adjacent sidewalls and end walls. As a result, human intervention is required so that a user must grab each of the pairs of adjacent walls to prevent deflection of the walls and align the locking members during the opening process. This is a cumbersome, time-wasting activity when opening the collapsed containers.

8. To overcome this problem, the claimed invention includes a wall guiding system 100. The wall guiding system generally includes a male protrusion or spur 110 positioned along one wall along the plane of one wall and is received by a complementary female member cooperating on the adjacent wall. The two are orthogonally oriented relative to each other so that as the wall with the male member is moved into the upright position, it engages the female member of the guiding means to align the locking structure without need for any other structures or use of hands in order to properly erect the collapsed container.

9. As a result of use of the inventive aligning means, what had previously been a 4-step process, the aligning and locking of each corner, is now a 2-step process, the lifting of the two walls containing the engaging portion of the aligning structure.

10. I have studied the Office Actions in this matter as well as the Foy reference and am familiar with both. The Examiner considers Foy to teach the wall alignment system as claimed. He specifically has determined that the lower most delta-shaped openings 84 and the locking tabs 68 of Foy (see Appendix B) as shown in Fig. 3 to anticipate the claimed alignment structure.

11. I have carefully studied Foy. The bottom most delta-shaped members 84 do not act to prevent deformation of the flexion of the walls during the opening process, particularly at the region near the latch or at the uppermost delta-shaped members 84.

12. I performed an experiment in which I created a collapsible container having rotatable side and end walls affixed to a base and a latch. A plurality of delta-shaped wings, similar to those wings 68 shown in Foy, were provided on one wall and corresponding delta-shaped receiving members 84 were provided at a corner of the adjacent wall. In other words, I created a crate having the locking mechanism taught by Foy. I then raised the wall having the male receiving members as illustrated in Fig. 3 of Foy and on a consistent basis, receiving members 84 cannot receive male member 68 because the walls were not properly aligned. I could only lock the walls in the upright

position by gripping the end wall and the sidewall simultaneously and manually aligning the two walls. The delta-shaped members do not act as aligning structure. A photograph of the crate I created is attached as Appendix C.

13. As a control to the experiment, I then created a collapsible container having the delta-shaped members 66 on the sidewall removed. In other words, there were no lower delta members. The endwall 44 and 46 were also provided with the aligning structure as claimed. Merely by raising the second wall of the sidewall/end wall pair, the locking members 68, 84 were able to consistently lock because they were aligned. A photograph of this create is attached as Appendix D

14. I have concluded, based upon my experiments, my knowledge of the industry and my observations that the locking mechanism of Foy does not act as the claimed aligning structure.

15. My conclusions are confirmed by my study of the prior art devices in the hindsight of the assertions of the Office Action with respect to Foy. The prior art crates, which do not have the claimed alignment structure, utilize additional structure at the top corner to compensate for the inability to consistently align the locking mechanisms between the adjacent sidewalls and end walls. These devices employing the very structure shown in Foy rely on ancillary structure to compensate for misalignment.

16. Furthermore, the action of the Foy device is in the same plane. When in the upright position, the delta-shaped members 68 of Foy lie in the same plane as the receiving members 84. On the other hand, the claimed invention relies upon orthogonal orientation of the two claimed parts of the alignment structure, so as to be co-planar with the primary surface of the respective end and sidewalls.

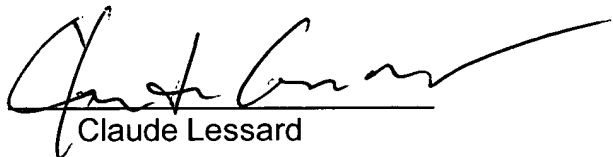
17. Whatever the discussion or description in Foy was intended to convey or describe, it was not and could not, as demonstrated by my experiments, have meant that

the bottom portions of the locking mechanism act to align the uppermost portions of the locking mechanism.

18. Thus, and contrary to the inference and conclusion being drawn in the Office Action, there is no alignment structure as claimed and Foy's structure has not and cannot function the same way as the claimed alignment structure.

19. I, the undersigned Claude Lessard declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Dated: July 13<sup>th</sup>, 2006

By   
Claude Lessard